

7236-B

RECORDATION NO. _____ Filed & Recorded

FEB 19 1974 -9 25 AM

INTERSTATE COMMERCE COMMISSION

THE FIRST NATIONAL BANK OF EASTERN PENNSYLVANIA

SECOND SUPPLEMENT TO CHATTEL MORTGAGE - SECURITY AGREEMENT

Supplement dated as of February 19, 1974 from THE FIRST NATIONAL BANK OF EASTERN PENNSYLVANIA, a United States banking corporation (the "Company"), having its principal office at 11 West Market Street, Wilkes-Barre, Pennsylvania 18701, party of the first part, to THE FIRST PENNSYLVANIA BANKING AND TRUST COMPANY, as TRUSTEE (the "Mortgagee"), whose address is 1500 Chestnut Street, Philadelphia, Pennsylvania, party of the second part,

W I T N E S S E T H:

WHEREAS, the Company has heretofore executed and delivered that certain Chattel Mortgage Trust Deed, Assignment of Rents and Security Agreement dated as of October 15, 1973 (the "Original Mortgage") to the Mortgagee as security for the payment in full of all principal of and interest on the 9 3/4% Notes of the Company not exceeding \$2,100,000.00 in aggregate principal amount (being hereinafter sometimes referred to as the "Notes") issued or to be issued and outstanding under that certain Loan Agreement dated as of October 15, 1973 (the "Loan Agreement"), between the Company and the Dollar Savings Bank and Acacia Mutual Life Insurance Company;

WHEREAS, the Original Mortgage was recorded in the Office of the Secretary of the Interstate Commerce Commission on November 15, 1973 and has been assigned Recordation No. 7236; and

WHEREAS, 9 3/4% Notes of the Company in the aggregate original principal amount of \$2,023,987.36 have been issued and are presently outstanding under the Note Agreement and the Original Mortgage; and

WHEREAS, the Company has covenanted and agreed that prior to or concurrently with the issuance of Notes on each subsequent Closing Date provided for by the Loan Agreement the Company will execute, acknowledge and deliver a supplement to the Original Mortgage specifically describing as part of the mortgaged property the railroad cars which were financed on the original closing and are being financed through the issuance of Notes on such subsequent Closing Date and confirming the mortgage thereof as security for all Notes issued or to be issued under the Loan Agreement; and

WHEREAS, all requirements of law and by-laws and articles of incorporation of the Company have been fully complied with and all other acts and things necessary to make this Supplement a valid, binding and legal instrument for the security of the Notes have been done and performed;

NOW, THEREFORE, the Company in consideration of the premises and of the sum of Ten Dollars received by the Company from the Mortgagee and other good and valuable consideration the receipt whereof is hereby

acknowledged, and in order to secure equally and ratably the payment of the principal of and interest on the Notes according to their tenor and effect and to secure the payment of all other indebtedness described in the Original Mortgage and the performance and observance of all the covenants and conditions contained in the Notes, the Original Mortgage and the Loan Agreement, and in each and every agreement or supplement thereto heretofore or hereafter executed provided to be performed or observed by the Company, the Company does hereby grant, bargain, sell, convey, warrant, mortgage, pledge and hypothecate unto the Mortgagee and its assigns forever, and grant a security interest in, all and singular the following described properties, rights, interests and privileges, that is to say:

DIVISION I

The railroad cars described in and bearing the numbers listed in Schedule I attached hereto and made a part hereof, being some of the railroad cars leased and delivered to Delaware and Hudson Railway Company (the "Lessee") under that certain Lease Agreement dated as of October 15, 1973 (the "Lease") between the Company, as Lessor, and the Lessee; and

DIVISION II

All accessories, equipment, parts and appurtenances appertaining or attached to any of the property hereinabove described, whether now owned or hereafter acquired, and all substitutions, renewals and replacements of and additions, improvements, accessions and accumulations to any and all of said property, together with all the rents, issues, income, profits and avails thereof.

SUBJECT, HOWEVER, to (a) the right and the interest of the Lessee under the Lease, and (b) the lien of current taxes and assessments not in default, or, if delinquent, the validity of which is being contested in good faith;

TO HAVE AND TO HOLD the property described in the Original Mortgage and in this Supplement, and all other property mortgaged under the Original Mortgage unto the Mortgagee and its assigns forever for the uses and purposes in the Original Mortgage set forth.

The Company hereby covenants, warrants and agrees that it is lawfully seized and possessed of the railroad cars described in Division I of the granting clause hereof and has good right, full power and authority to convey, transfer and mortgage said railroad cars to the Trustee for the uses and purposes herein set forth, and the railroad cars described in said Division I are owned by the Company free and clear of any and all liens and encumbrances (excepting only the lien of current ad valorem taxes not in default and the right, title and interest of the Lessee under the Lease), and that the Company will warrant and defend the title to the railroad cars against all claims and demands whatsoever (excepting only the right and the interest of the Lessee under the Lease).

The Company further covenants and agrees to perform and observe duly and punctually all of the covenants and

agreements contained in the Original Mortgage, all such covenants and agreements being hereby ratified, approved and confirmed.

This Supplement may be executed, acknowledged and delivered in any number of counterparts, each of such counterparts constituting an original, but all together only one instrument.

All the covenants, stipulations, premises, undertakings and agreements herein contained by or on behalf of the Company shall be binding upon the Company and its successors and assigns.

IN WITNESS WHEREOF, The First National Bank of Eastern Pennsylvania has caused this Supplement to be executed on its behalf by its Vice President and its corporate seal to be hereunto affixed and attested by its Secretary, all as of the day and year above written.

THE FIRST NATIONAL BANK OF
EASTERN PENNSYLVANIA

By W.R. Mainwaring
Its Vice President

(Corporate Seal)

Attest:

J.S. Scour
Its Secretary

STATE OF PENNSYLVANIA :
COUNTY OF Luzerne : ss

On this 8th day of February 1974, before me personally appeared W.R. Mainwaring, to me personally known who being by me duly sworn, says that he is Vice President of The First National Bank of Eastern Pennsylvania, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Lucille Graylock
Notary Public

(Affix Notarial Seal)

My Commission Expires:

LUCILLE GRAYLOCK, Notary Public
Wilkes-Barre, Luzerne County Pa.
My Commission Expires May 26, 1975

SCHEDULE I

To the Supplemental Mortgage

<u>OLD</u>	<u>NEW</u>
18327	23501
18303	23502
18345	23503
18389	23504
18342	23506
18316	23512
18370	23515
18270	23513
18312	23517
18371	23518
18305	23520
18328	23521
18379	23523
18203	23525
18332	23527
18395	23530
18233	23532
18320	23533
18386	23536
18221	23537
18253	23538
18376	23539
18355	23541
18301	23544
18225	23547
18268	23548
18244	23549
18298	23550
18396	23552
18335	23553
18393	23554
18243	23556
18311	23557
18174	23558
18321	23559
18283	23560
18192	23563
18181	23564

<u>OLD</u>	<u>NEW</u>
18387	23565
18318	23566
18300	23567
18341	23568
18322	23571
18245	23572
18237	23573
18359	23576
18309	23577
18375	23578
18196	23579
18388	23581
18285	23585
18313	23587
18213	23588
18364	23589
18324	23590
18205	23595
18214	23597
18289	23598
18169	23519
18155	23524
18130	23526
18159	23542
18111	23543
18107	23546
18154	23551
18140	23561
18148	23569
18126	23591
18187	23593
18136	23594
18160	23600
18250	23562
18255	23580
18166	23582
18338	23599